

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

224

CRM-A-1560-MA-2018 (O&M)

Date of Decision: 21.08.2023

Smt. Sudesh

.... Applicant

Versus

State of Haryana and others

.... Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Jagjeet Beniwal, Advocate for the applicant.

NIDHI GUPTA, J.

1. The applicant has preferred the instant criminal miscellaneous application under Section 378(4) Cr.P.C., seeking leave to file appeal against the judgment dated 21.03.2018, passed by the learned Judicial Magistrate Ist Class, Bhiwani, whereby respondents No. 2 to 5 herein, have been acquitted for the alleged offences under Sections 323, 498-A, 406 read with Section 34 and 506 IPC in a complaint case bearing Criminal Complaint Case No. 165-1C, CIS No. COMI-173-2015 dated 08.01.2014/ 19.04.2016, titled as 'Smt. Sudesh vs. Pardeep Kumar and others'.

2. Learned counsel for the applicant, *inter alia*, submitted that marriage of the applicant with respondent No. 2-Pardeep Kumar, was solemnized on 05.11.2009. Respondent No. 3 is the father-in-law; respondent No. 4 is mother-in-law and respondent No. 5 is brother-in-law of the applicant. It is submitted that though the family of the applicant had spent lavishly on her marriage with respondent No. 2 and sufficient dowry articles were given to the accused persons, however, they were still not

satisfied with the dowry, and they used to taunt her for bringing less dowry. One daughter was born out of this wedlock in July, 2010, who died shortly thereafter. It is further submitted that after the death of her daughter, the applicant was thrown out of the matrimonial home, however, demands for dowry did not cease. Accordingly, the applicant filed the present complaint against respondents No. 2 to 5 herein under Sections 323, 498-A, 406 and 506 read with Section 34 IPC. Learned counsel for the applicant further submits that the findings returned by the trial Court are immaterial as there was sufficient evidence produced on record by the applicant which has wrongly been ignored by the learned trial Court.

3. No other argument is raised on behalf of the applicant.
4. I have heard learned counsel for the applicant.
5. Perusal of the record of the case shows that the learned trial Court upon detailed appraisal of all the facts, pleadings, submissions, and documentary as well as the oral evidence produced on record, returned the following findings:

“18- In the present case, the allegations against the accused persons are that the complainant was tortured, harassed and beaten up for dowry by the accused persons on number of occasions. However the complainant neither in the complaint nor her testimony has given any specific date or time qua the demand of dowry or the beatings given by the accused persons. The complainant has specifically stated that an amount of Rs. 3,00,000/- was given by her father to accused Pardeep by withdrawing the amount from the Kisan Credit Card and in the examination in chief, she has stated that the installments of the aforesaid amount was being paid by her

father. However, no such account details have been placed on record by the complainant. If the amount was withdrawn from a bank account and was paid back in installments, then that could be the best evidence to prove the payment by the father of complainant to the accused. The other allegations of demand of dowry are general and vague in nature and no specific date or time has been mentioned. The other allegations are regarding the beatings by the accused persons. In this regard, the complainant has submitted that she was severely beaten up by the accused many times and has given specific time i.e. in the year 2009, 2010 and 2013. It is also alleged that she was beaten up with dandas when she was pregnant with two months, however, there is no medical record in his regard. The complainant has not placed or proved on record any medical or any other document to prove that she sustained any injury on any occasion. The complainant has alleged that on 06.09.2013, she was ousted from the matrimonial house alongwith he minor daughter in wearing clothes and the accused kept all the Istridhan with them. However, it is admitted by the complainant as well as her father that when she came to her parental house, her husband came to bring her back to the matrimonial house and she went alongwith him. So far as the allegations on the other family members, the complainant herself has admitted that her sister-in-laws and the brother-in-law were already married at the time of her marriage with accused Pardeep. It is admitted fact that a Panchayat was convened in the parental village of complainant and one of the members of the Panchayat namely Karambir appeared as CW2 but this witness in the cross-examination has specifically stated that he was the cousin brother of complainant and was deposing upon asking of complainant hence, the testimony of this witness is to be termed as of interested witness. The other witness is the father of

complainant who is a hearsay witness and was not present at the time of any alleged occurrence of demand and beating by the accused. The complainant has specifically named the persons present in the Panchayat as Karmal son of MedhSingh and Karambir son of Man Singh but none of the other Panchayat Members have been examined as independent witnesses. So far as the allegations regarding Section 406 of IPC are concerned, there is nothing in the complaint that the accused persons refused to return the Istridahn.....”

6. Learned counsel for the applicant is unable to dispute or controvert the abovesaid findings as recorded by the trial Court. Even nothing has been produced before this Court to show as to why the abovesaid findings are incorrect or ought to be rejected. The applicant has placed nothing on record to show that payment was made by her father to the accused. Applicant is even unable to substantiate her allegations of beatings meted out to her by the accused. In fact, the perusal of the above findings shows that the applicant has made contradictory statements through the course of the trial.

7. Accordingly, I find that no ground is made out to interfere in the impugned judgment. The instant criminal miscellaneous application seeking leave to file appeal being completely devoid of any merit is **dismissed.**

21.08.2023
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(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No